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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,865

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11/16/2007

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

11/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/720,865

Applicant(s)

CAMP, WILLIAM P.

Examiner

/Stephen J. Castellano/

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-7, 11, 12, 16 and 20-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7, 11, 12, 16 and 20-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Claims 1-4, 8-10, 13-15 and 17-19 have been canceled. Claims 5-7, 11-12, 16 and 20-35 are pending.

Claims 34 and 35 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 19, 2007.

Applicant's traverse of the election by original presentation (constructive election) in the reply filed on September 19, 2007 is acknowledged. The traversal is on the ground(s) that inventions are not independent and there is no examination burden. This is not found persuasive because the inventions are distinct: a combination of baby bottle and insulated container capable of holding the baby bottle was submitted on February 16, 2007. At the same instant, all of the subcombination claims to an insulated container were narrower than the insulated container of the combination. This is two non-distinct inventions related as combination and subcombination. The two inventions involved search in two distinct areas: The combination required search in 220/737, 739 and 215/12.1 and 13.1; these areas are not a good search for the subcombination of the insulating container. The insulating container subcombination was searched in 220/592.23, 23.83, 23.86, 23.87, 23.88, 915.2 and 206/514. There was and is a significant burden in searching two very different areas then evaluating two distinct bodies of found prior art.

The requirement is still deemed proper and is therefore made FINAL.

Claim 12 is objected to because it depends from claim 10 (a canceled claim). Claim 12 is incomplete.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 is incomplete because it depends from canceled claim 10.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Lytle and Ragland.

Dooley discloses an insulated container comprising a container body (60) a lid (48) and an insulating layer (64) and a liner (62) configured to be removable and reusable and fits substantially within the container body wherein the liner is manufactured from a rigid material. The insulating layer (62) has an insulated partition (sloped section 66 which consists of a top wall and two walls which extend downwardly from the top wall) separating the insulating layer into two compartments or coupling cavities. The liner 62 has a channel fitting over the insulating partition and a lip at the upper edge. Dooley discloses the invention except for latches. Ragland teaches a latch to removably attach a full height liner. Lytle teaches latches on

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oppositely disposed upstanding wall for a partial liner (as it extends only at the topmost portion of the interior of the container body). It would have been obvious to add the plurality of latches to opposed upstanding walls to secure a removable liner with a body cavity to allow separate cleaning of a soiled liner or allow separate replacement of a damaged liner. Lytle's liner discloses the flexible arm and hook received within a slot arrangement and open area between the channel formed by the upper lip and sidewall of the liner and the inner surface of the body sidewall that can vent trapped air.

The two compartments of Dooley are substantially thermally isolated.

Claims 11, 12, 16, 21-23, 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Gale.

Dooley discloses the invention except for the recess in the underside of the lid. Gale teaches a recess on the underside of a lid aligned with a corresponding cavity for supporting an upright object (e.g. wine bottle). It would have been obvious to add the recess on the underside of a lid to provide a lid support to an upright object to prevent falling of the objects and possible damage from similar objects being broken during bumpy transport.

The two compartments of Dooley are substantially thermally isolated.

Re claims 12 and 33, it would have been obvious to modify the bottle bottom recess engaging projection to be domed shape as a matter of design choice.

Re claims 16, 21-23 and 30, three horizontal cross sections taken at three different heights of the bottom cup portion of Gale would lead to three cylindrical portions having three different diameters. It would have been obvious to modify the dimensions of the cup to hold a plurality of different sized containers because it is known that all containers do not have the same

diameter and it would have been obvious to select three diameters which correspond to the dimensions of bottles to be transported.

Claims 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Lytle and Ragland as applied to claim 24 above, and further in view of Gale.

The Dooley-Lytle-Ragland combination disclose the invention except for the differently sized portions of the coupling cavity. Gale teaches the cup with differently sized cylindrical portions. It would have been obvious to modify the dimensions of the cup to hold a plurality of different sized containers because it is known that all containers do not have the same diameter and it would have been obvious to select three diameters which correspond to the dimensions of bottles to be transported.

Re claim 26, the polygonal shape would have been obvious as a design choice shape modification.

Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley in view of Gale as applied to claim 30 above, and further in view of Lytle and Ragland.

Dooley and Gale are applied as previously discussed in the rejection of claims 11, 12, 16, 21-23, 30 and 33 above. The Dooley-Gale combination discloses the invention except for the latches and the channel. Lytle and Ragland teach the latches and channel. It would have been obvious to add the latches for securing a removable liner. It would have been obvious to add the channel to allow venting so that the liner more easily slides with respect to the body when being inserted and removed.

Applicant's arguments filed September 19, 2007 have been fully considered but they are not persuasive.

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Dooley discloses substantially thermally isolated compartments because there is a distance which separates the compartments and the structure of Dooley provides a substantial separation such that a significant temperature difference can develop between the two compartments especially considering that if a heated substance is placed in one compartment and a chilled substance is placed in the other compartment. The difference in temperature would certainly be maintained for a matter of seconds and for a matter of minutes and could be maintained for as long as an hour or two.

In response to applicant's argument that Lytle and Ragland are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the field of endeavor involves containers with liners or inserts. Also, the particular problem solved of securing a liner or insert within a container is shared by Lytle and Ragland.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/  
Primary Examiner  
Art Unit 3781

sjc